LEGISLATIVE RESEARCH COMMISSION

CIVIL RIGHTS COMPLIANCE

REPORT TO THE
1983 GENERAL ASSEMBLY
OF NORTH CAROLINA

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TABLE OF CONTENTS

LETTER OF TRANSMITTAL i

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP, 1981-83. . ii

PREFACE iii

COMMITTEE PROCEEDINGS 1

Exhibits 1 through 7

FINDINGS 45

RECOMMENDATIONS 48

Proposed Legislation:

1. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR MONITORING CIVIL RIGHTS COMPLIANCE IN NURSING HOMES. (Recommendation #2). 51

2. A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR A FULL-TIME CIVIL RIGHTS COORDINATOR IN THE DIVISION OF SOCIAL SERVICES. (Recommendation #3). 52

3. A BILL TO BE ENTITLED AN ACT TO REPEAL OBSOLETE LAWS RELATING TO THE CORPORATE CHARTER OF CENTRAL ORPHANAGE OF NORTH CAROLINA. (Recommendation #8). 53

4. A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY CIVIL RIGHTS COMPLIANCE IN NON-STATE INSTITUTIONS RECEIVING STATE FUNDS. (Recommendation #10). 54

APPENDICES

A. Membership of committee A-1

B. Authorizing Legislation

Resolution 61 . . . . . B-1
House Joint Resolution 344 . . . . . B-6

C. Witnesses C-1

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

January 12, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matter of civil rights compliance. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's study committee on Civil Rights Compliance and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey
W. Craig Lawing

Cochairmen
Legislative Research Commission

1981-83

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PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The co-chairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-chairmen, one from each house of the General Assembly, were designated for each committee.

The study of civil rights compliance in non-state institutions receiving state funds was authorized by Resolution 61 of the 1981 Session Laws. That resolution states that the Commission should

look to House Joint Resolution 344 for guidance on the scope of the study. Section 1 of House Joint Resolution 344 reads:

> The Legislative Research Commission shall review and study non-state institutions receiving state funds to determine if their practices are in compliance with the 14th Amendment to the United States Constitution, Section 19 of the North Carolina Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the related United States Supreme Court decisions and report its findings, including more extensive studies in this respect that the Commission deems necessary, to the 1983 Session of the General Assembly.

The Legislative Research Commission grouped this study in its State Government area under the direction of Representative Jack Hunt. The study committee was chaired by Representative Kenneth B. Spaulding and Senator Russell Walker. The full membership of the committee is listed in Appendix A of this report. Resolution 61 and House Joint Resolution 344 are included as Appendix B.

COMMITTEE
PROCEEDINGS

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Study Committee on Civil Rights Compliance met five times. The committee decided to focus on nursing homes, rest homes, and child caring institutions. These institutions are not state owned or operated, but they receive a significant amount of state money.

The committee gathered statistical data on each of these institutions. Initially the committee decided to study race, sex, and handicapping condition statistics for each type of institution. Before proceedings had gone very far, however, the committee realized the majority of complaints and questions involved the issue of race, and most of the committee's deliberations revolved around that issue.

Child caring institutions (formerly called orphanages) were discussed at the first meeting. Almost all children are referred to those institutions by the local departments of social services. The Division of Social Services, Department of Human Resources, is responsible for seeing that the requirements of Title 6 of the Civil Rights Act of 1964 are followed. The Department supplied the committee with statistics on the race of children in child caring institutions (Exhibit 1). Two institutions not included on the chart are the Freewill Baptist Home in Middlesex and the Oxford Orphanage. These institutions received state money until 1981. Neither had signed a civil rights compliance agreement, so funds were terminated.

Of the child-caring institutions receiving state money, questions centered

on the Cherokee Children's Home and Central Orphanage. The former is on the Cherokee Indian Qualla Boundary in Haywood County. The latter is in Granville County near the Oxford Orphanage. Oxford Orphanage and Central Orphanage have traditionally been single race homes. The Department explained that it has made many efforts to desegregate Central Orphanage, all unsuccessful.

The committee looked at nursing homes at its next two meetings. Civil rights compliance for these institutions is the responsibility of the federal government. The Division of Facility Services, Department of Human Resources, handled these duties on a contract basis with the federal government until 1980, but since then the contract has not been renewed and the Atlanta office of the Department of Health and Human Services has been responsible. The Division of Facility Services reported that when the contract was dropped, the federal government deemphasized civil rights. In the last two years, virtually no on-site inspections of nuring homes have been conducted, no annual reports have been required, and no monitoring has been conducted. The Division said it is audited closely to make sure it does not use any of its federal money for civil rights compliance.

Placement in a nursing home is usually done by the family of the patient. The physician sometimes assists, and the local departments of social services frequently have input. These departments supply names of homes and availability information, but the patient and his family ultimately make the decision.

The Department of Human Resources supplied the committee with

statistics on the race and sex of patients in nursing homes. (Exhibit 2). The race data and the figures on the number and percentage of medicaid patients are annual figures from 1980-81. The sex figures are a one-day census from October 1982. After looking at this chart, the committee requested further information on several homes by a letter dated October 20, 1982. (Exhibit 3). Upon a response of Division of Facility Services to this letter (Exhibit 4), the committee requested further information from the Division of Social Services. Facility Services checked with the particular nursing homes and determined their actions with regard to civil rights compliance, but its authority with regard to local social services departments is limited. The Division of Social Services oversees all local departments, however, so it was asked to check the relevant local departments. Social Services responded in a memorandum dated November 9, 1982. (Exhibit 5). By this series of follow-up inquiries, the commitee hoped to find answers to the questions the initial data contained in Exhibit 2 raised. If the reason a nursing home's racial population was greatly different from the state and local racial figures was related to the admissions policy, inquiry of the nursing home would be appropriate. If the reason was related to the referral policy, inquiry of the local department of social services might be helpful. After all the questions were asked, however, the committee still had unresolved questions. To present the data and questions as accurately as possible to the General Assembly, the committee requested that Facility Services update the figures in Exhibit 2 for certain homes.

These updated figures are presented as Exhibit 6.

One question the committee pursued at length was whether a home could lawfully discriminate on the basis of religion if that discrimination resulted in discrimination on the basis of race. Title 6 of the Civil Rights Act of 1964 prohibits discrimination only on the grounds of race, color, or national origin. For a while the question was a matter of litigation, Hickman v. Fowinkle, C. A. No. 80-2014 (W. D. Tenn., filed January 11, 1980), but the plantiffs took a voluntary dismissal against the defendant religious homes. The final answer the committee received was a memorandum from the Department of Health and Human Services (reproduced in full as Exhibit 7). The conclusion that Department reached was: A nursing home may limit admissions to members of a particular religious order if such a limitation is applied uniformly to all applicants for admission and if the religious order does not otherwise discriminate on the basis of race, color, or national origin. Thus a nursing home may limit admissions to members of a particular religious order if it admits members of that order of all races, colors, and national origins. A nursing home may not limit admissions to members of a particular fraternal organization if that limitation has been established for the purpose of discriminating on the basis of race, color, or national origin, or if the limitation has the effect of discriminating on the basis of race, color, or national origin.

The committee was unable to look into civil rights compliance

in rest homes. The Division of Social Services, which is responsible for compliance in those homes, attempted unsuccessfully to obtain statistics like those supplied to the committee on child caring institutions and nursing homes. If the study is continued, the Division says it can obtain the data.

Throughout the committee proceedings, the Department of Human Resources stated that civil rights compliance has not been one of its major priorities. For the Division of Facility Services, this policy has been due to the cutoff of federal funding. The Division of Social Services has not emphasized the issue, but a development during the proceedings was commended by the committee as a beginning. A half-time civil rights coordinator has been hired who will oversee compliance in child caring institutions and rest homes.

Both Facility Services and Social Services were extremely helpful and cooperative during the committee's deliberations. Many of the following findings and recommendations originated with those divisions.

EXHIBIT 1

CHILD CARING INSTITUTIONS RECEIVING STATE FUNDS

Child Caring Institutions	Total children cared for 10/1/80 through 9/30/81					Total children in care 9/30/81				
	White	Black	Indian	Other	Total	White	Black	Indian	Other	Total
Alexander Children's Center (Mecklenburg)	37	16	1	0	54	21	12	1	0	34
Percent	69.5	29.6	1.9	-		61.8	35.3	2.9	-	
Baptist Children's Homes of N.C. (Davidson)	652	105	7	12	776	287	59	2	5	353
Percent	84.0	13.5	.9	1.6		81.3	16.7	.6	1.4	
Barium Springs Home for Children (Iredell)	105	24	1	1	131	30	8	0	0	38
Percent	80.1	18.3	.8	.8		78.9	23.1	-	-	
Boys Homes of N.C. (Columbus)	102	38	0	8	148	46	22	0	3	71
Percent	68.9	25.7	-	5.4		64.8	31.0	-	4.2	
Boys Town of N.C. (Mecklenburg)	25	17	0	0	42	15	11	0	0	26
Percent	59.5	40.5	-	-		57.7	42.3	-	-	
Central Orphanage of N.C. (Granville)	0	57	0	3	60	0	44	0	2	46
Percent	-	95.0	-	5.0		-	95.7	-	4.3	
Cherokee Children's Home (Haywood)	1	0	24	0	25	1	0	16	0	17
Percent	4.0	-	96.0	-		5.9	-	94.1	-	
The Children's Home (Forsyth)	68	27	0	4	99	36	20	0	1	59
Percent	68.7	27.3	-	4.0		64.4	33.9	-	1.7	
Church of God Orphanage (Cabarrus)	67	9	0	8	84	39	7	0	6	52
Percent	79.8	10.7	-	9.5		75.0	13.5	-	11.5	
Crossnore School (Avery)	77	20	0	2	99	41	14	0	0	55
Percent	77.8	20.2	-	2.0		74.5	25.5	-	-	
Eliada Home for Children (Buncombe)	54	7	0	3	64	26	6	0	1	33
Percent	84.4	10.9	-	4.7		78.8	18.2	-	3.0	

EXHIBIT 1

	White	Black	Indian	Other	Total	White	Black	Indian	Other	Total
Elon Home for Children (Alamance)	71	26	0	2	99	39	22	0	1	62
Percent	71.7	26.3	-	2.0		62.9	35.5	-	1.6	
Falcon Children's Home (Cumberland)	77	21	3	6	107	50	17	1	2	70
Percent	72.0	19.6	2.8	5.6		71.4	24.3	1.4	2.9	
Grandfather Home for Children (Avery)	48	7	2	0	57	30	5	0	0	35
Percent	84.2	12.3	3.5	-		85.7	14.3	-	-	
Junior Order Home (Davidson)	62	25	0	3	90	28	12	0	2	42
Percent	68.9	27.8	-	3.3		66.7	28.6	-	4.7	
Methodist Home (Wake)	36	21	2	2	61	27	10	0	0	37
Percent	59.0	34.4	3.3	3.3		73.0	27.0	-	-	
Nazareth Children's Home (Rowan)	39	11	0	1	51	32	7	0	0	39
Percent	76.4	21.6	-	2.0		82.1	17.9	-	-	
Sipes Orchard Home (Catawba)	21	11	0	3	35	12	9	0	1	22
Percent	60.0	31.4	-	8.6		54.6	40.9	-	4.5	
South Mountain Institute (Yadkin)	44	4	0	0	48	34	3	0	0	37
Percent	91.7	8.3	-	-		91.9	8.1	-	-	
Thomspon Children's Home (Mecklenburg)	47	11	2	1	61	27	8	1	1	37
Percent	75.8	17.8	3.2	1.6		73.0	21.6	2.7	2.7	

EXHIBIT 2

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Alamance - Care Inn	154	89.0	145	83.8	28	16.2	31	26.1	88	73.9
- Central Piedmont	136	77.3	155	88.1	21	11.9	28	24.2	75	75.8
Anson - Wadesboro Nursing Home	54	81.8	63	95.5	3	4.5	10	16.1	52	83.9
Avery - Regency Health Care Center	21	17.1	111	90.2	12	9.8	31	35.6	56	64.4
Beaufort - Health Care Center	132	85.7	103	66.9	51	33.1	15	25	45	75
Bladen - Elizabethtown N/Ctr.	176	81.5	155	71.8	61	28.2	31	37.3	52	62.7
Brunswick - Ocean Trail Conv. Ctr.	112	88.9	99	78.6	27	21.4	16	25	48	75
Buncombe - Hillside N/Home	29	100	24	82.8	5	17.2	3	17.6	14	82.4
- Deerfield Episcopal Ret.	-	-	60	100	-	-	2	6.5	29	93.5
- Brooks-Howell Home	-	-	92	100	-	-	0	0.0	40	100
- Chunns Cove NHM	-	-	89	97.8	2	2.2	9	16.4	46	83.6
- Highland Farms, Inc.	-	-	264	98.9	3	1.1	10	16.7	50	83.3
- Pisgah Manor	121	70.0	165	95.4	8	4.6	19	16.4	97	83.6
- Hillhaven	25	5.4	420	90.0	47	10.0	17	15.3	94	84.7
- Biltmore Manor	-	-	74	43.3	97	56.7	17	22.7	58	77.3

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Fe
Buncombe (continued)										
- Aston Park Health Care	105	47.1	211	94.6	12	5.4	21	20	83	80
- Victoria Health Care	59	64.1	79	85.9	13	14.1	39	38.2	63	61.8
- Brentwood Rehab. Ctr.	134	42.4	270	85.4	46	14.6	31	42.5	42	57.5
Burke - Health Care Center	134	85.4	134	85.4	23	14.6	22	24.2	69	75.8
- Forest Ret. ICF	49	72.1	66	97.1	2	2.9	6	12.2	43	87.8
- Foothills N/Ctr.	230	86.8	242	91.3	23	8.7	25	21	94	79
Cabarrus - Five Oaks N/Ctr.	280	75.5	345	93.0	26	7.0	34	27.9	88	72.1
- Brian Ctr. N/Care	20	60.6	32	97.0	1	3.0	0	0.0	24	100
-Cabarrus N/Ctr.	218	75.7	247	85.8	41	14.2	22	19.1	93	80.9
- Concord N/Ctr.	234	75.5	294	94.8	16	5.2	33	29.2	80	70.8
Caldwell - Brian Ctr. N/Care	195	91.6	186	87.3	27	12.7	33	28	85	72
Carteret - Sailors Snug Harbor	-	-	119	97.5	3	2.5	34	94.4	2	5.6
- Morehead N/Ctr.	145	82.4	137	77.8	39	22.2	18	20.2	71	79.8
- Harborview N/ Home	80	86.0	86	92.5	7	7.5	14	22.6	48	77.4
Catawba - N. C. Lutheran Homes	56	61.5	91	100.0	-	-	14	23.3	46	76.7
- Hickory Health Care	153	90.0	27	15.9	143	84.1	15	14	92	86
- Pellcare, Inc.	150	83.8	149	83.2	30	16.8	26	21.7	94	78.3
- United Church Ret. Home	47	38.9	118	97.5	3	2.5	15	21.4	55	78.6
- Brian Ctr. N/Care	145	80.6	172	95.6	8	4.4	20	19.8	81	80.2

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Chatham - Brian Ctr. N/Care	201	80.1	207	82.5	44	17.5	34	29.1	83	70.9
Chowan - Elderlodge Edenton	207	98.1	130	61.6	81	38.4	21	21.9	75	78.1
Cleveland - Beam N/Home	70	41.2	154	90.6	16	9.4	36	36	64	64
- Shelby Conv. Ctr.	217	73.3	261	88.2	35	11.8	29	18.1	131	81.9
- Kings Mt. Conv. Ctr.	150	76.2	170	86.3	27	13.7	27	21.8	97	78.2
Columbus - Lake Waccamaw Conv. Ctr.	166	89.3	109	58.6	77	41.4	22	28.6	55	71.4
- Century Care Ctr., Inc.	128	93.4	99	72.3	38	27.7	28	26.4	78	73.6
Craven - Health Care Ctr.	75	70.8	81	76.4	25	23.6	7	21.2	26	78.8
- Guardian Care	152	85.4	135	75.8	43	24.2	21	18.3	94	81.7
Cumberland - Whispering Pines NHM	68	89.5	65	85.5	11	14.5	11	21.2	41	78.8
- Gladhaven N/Ctr.	180	98.9	33	18.1	149	81.9	44	47.3	49	52.7
- Golden Years Home	55	68.8	80	100	-	-	14	24.6	43	75.4
- Highland House	108	98.2	81	73.6	29	26.4	12	19.4	50	80.6
- Rest Haven N/Home	67	73.6	87	95.6	4	4.4	19	41.3	27	58.7
- Bethesda Health Care Fac.	59	63.4	88	94.6	5	5.4	10	16.9	49	83.1
Davidson - Brian Ctr. N/Care	117	90.7	102	79.1	27	20.9	16	28.6	40	71.4
- Golden Age, Inc.	4	5.3	74	97.4	2	2.6	6	12.2	43	87.8
- Buena Vista N/Ctr.	55	87.3	60	95.2	3	4.8	1	2.8	35	97.2

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Davidson (continued)										
- Davidson N/Ctr.	164	82.4	184	92.5	15	7.5	18	16.8	89	83.2
- Centerclair, Inc.	49	52.1	89	94.7	5	5.3	20	33.9	39	66.1
- Mtn. Vista Elderlodge	73	62.4	113	96.6	4	3.4	13	22	46	88
- Liberty House NHM	190	94.5	177	88.1	24	11.9	30	25	90	75
Davie - Autumn Care	121	69.5	163	93.7	11	6.3	19	25.3	56	74.7
Duplin - Guardian Care	151	92.1	110	67.1	54	32.9	34	37.8	56	62.2
Durham - Hillcrest Conv. Ctr.	6	1.9	311	98.7	4	1.3	20	17.2	96	82.8
- Methodist Ret. Home	80	38.8	206	100.0	-	-	23	20.4	90	79.6
- Hillhaven Rehab. & Conv. Ctr.	142	37.4	257	67.6	123	32.4	28	29.8	66	70.2
- Hillhaven LaSalle NCTR	217	90.4	162	67.5	78	32.5	38	31.4	83	68.6
- Hillhaven Rose Manor Conv.	224	93.7	193	90.8	46	9.2	26	21.8	93	78.2
- Durham Care Ctr.	242	73.8	149	45.4	179	54.6	44	40	66	60
Edgecombe - Beverly Health Care Ctr.	269	88.8	152	50.2	151	49.8	50	33.1	106	67.9
- Guardian Care/ Tarboro	77	82.8	59	63.4	34	36.6	16	28.1	41	71.9
Forsyth - Lamb's N/Home	193	82.5	151	64.5	83	35.5	43	43.4	56	56.6
- Oakwood Knoll N/Home	57	89.1	50	78.1	14	21.9	10	32.3	21	67.7
- Pellcare	401	80.2	353	70.6	147	29.4	69	32.2	145	67.8

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Perce
Forsyth (continued)										
- N. C. Baptist Homes	60	53.6	112	100.0	-	-	4	3.2	73	94.8
- Winston-Salem Conv. Ctr.	319	67.6	369	78.2	103	21.8	41	18.4	182	81.6
- N. C. Jewish Homes	76	39.8	190	99.5	1	.5	28	22.6	96	77.4
- Moravian Home, Inc.	-	-	88	100.0	-	-	14	20.6	54	79.4
- Silas Creek Manor	131	69.0	165	86.9	25	13.2	29	29.9	68	70.1
- Knollwood Hall	369	95.4	260	67.2	127	32.8	54	27.3	144	72.7
- Willowbrook Care Ctr.	75	75.0	89	89.0	11	11.0	12	20.7	46	79.3
- Triad Rehab. Ctr.	63	78.8	48	60.0	32	40.0	18	45.0	22	55
- Meadowbrook Manor	87	53.4	161	98.8	2	1.2	20	17.1	97	82.9
Franklin - Louisburg N/Ctr.	140	77.8	148	82.2	32	17.8	18	19.8	73	80.2
Gaston - Beam N/Home	51	100.0	46	90.2	5	9.8	10	35.7	18	64.3
- Dwight L. Beam NHM	64	71.1	90	100.0	-	-	12	24	38	76
- Brian Ctr. N/Care	151	85.3	156	88.1	21	11.9	33	27.5	87	72.5
- Carolina Care Ctr.	44	57.9	75	98.7	1	1.3	14	23.3	46	76.7
- Guardian Care	159	93.5	148	87.0	22	13.0	25	21.7	90	78.3
Granville - Granville Care Nursing	211	88.3	136	56.9	103	43.1	51	45.1	62	54.9
Greene - Oak Manor	79	91.9	62	72.1	24	27.9	15	36.6	26	63.4
Guilford - Maryfield N/Home	32	17.3	183	98.9	2	1.1	19	16.5	96	83.5
- Clapp's N/Care	29	53.9	51	98.1	1	1.9	6	21.4	22	78.6
- The Presbyterian Home, Inc.	16	20.5	78	100.0	-	-	9	12.5	63	87.5

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Guilford (continued)										
- The Evergreens Inc.	447	87.3	424	82.8	88	17.2	89	33.8	174	66.2
- Anthony's Care Ctr.	46	100.0	41	89.1	5	10.9	7	25	21	75
- Masonic & Eastern Star Home	-	-	208	100.0	-	-	7	10.6	59	89.4
- Wesleyan Arms, Inc.	83	42.1	194	98.5	3	1.5	15	15.3	83	84.7
- Greenhaven N/Ctr.	170	68.3	234	94.0	15	6.0	19	16.5	96	83.5
- Friend's Homes, Inc.	7	7.2	96	99.0	1	1.0	8	16	42	84
- Countryside Manor	70	80.5	86	98.8	1	1.2	9	15	51	85
- The Galilean Ext. Care Fac.	336	76.4	376	85.5	64	14.5	49	25.3	145	74.7
- The Evergreens II	135	87.7	149	96.8	5	3.2	14	15.6	76	84.4
- Starmount Villa	227	77.7	224	76.7	68	23.3	44	37.3	74	62.7
- Greensboro Health Care Ctr.	173	70.3	196	79.7	50	20.3	25	24.3	78	75.7
- St. James N/Ctr.	116	43.3	45	16.8	223	83.2	46	46.9	52	53.1
Halifax - Conv. Ctr./Enfield	126	88.1	89	62.2	54	37.8	19	31.1	42	68.9
- Guardian Care/ Roanoke	76	43.4	153	87.4	22	12.6	32	29.4	77	70.6
- Guardian Care/ Scotland Neck	90	96.8	47	50.5	46	49.5	15	24.6	46	75.4
Harnett - Adams/Kinton NHM	102	42.0	180	74.1	63	25.9	17	13.8	106	86.2
- Charles Parrish Mem. NCTR.	257	96.3	187	70.0	80	30.0	29	28.7	72	71.3

County & Facility Name	Medicaid	Percent	White	Percent	Non-White	Percent	Male	Percent	Female	Percent
Haywood - Canton N/Home	149	59.8	243	97.6	6	2.4	41	39	64	61
- Health Care Ctr/Clyde	86	89.6	89	92.7	7	7.3	16	33.3	32	66.7
- Hemlock N/Home	131	72.0	178	97.8	4	2.2	10	18.9	43	81.1
Henderson - Carolina Village, Inc.	22	11.3	194	100.0	-	-	16	28.6	40	71.4
- Lakewood Manor NC&R	304	91.9	285	86.1	46	13.9	37	26.2	104	73.8
Hertford - Guardian Care	73	48.7	131	87.3	19	12.7	21	21.2	78	78.8
Iredell - Hill Haven N&Rest Home	-	-	48	100.0	-	-	7	24.1	22	75.9
- Brian Ctr. N/Care/ Statesville	170	92.4	165	89.7	19	10.3	20	16.8	99	83.2
- Brian Ctr. N/Care/ Mooresville	101	74.8	128	94.8	7	5.2	20	20	80	80
Jackson - Skyland Care Ctr.	177	86.8	203	99.5	1	.5	17	18.9	73	81.1
Johnston - Johnston Co. Men. NCTR	244	90.4	209	77.4	61	22.6	38	31.7	82	68.3
Lee - Conv. Care	127	79.9	141	88.7	18	11.3	28	27.2	75	72.8
- Conv. Care/Sanford	101	59.4	134	78.8	36	21.2	29	29.3	70	70.7
Lenoir - Howell's Child Care	125	92.6	100	74.1	35	25.9	70	56	55	44
- Oak Manor/Kinston	331	84.9	236	60.5	154	39.5	73	40.1	109	59.9
- Guardian Care	105	66.9	146	93.0	11	7.0	23	20.4	90	79.6
Lincoln - Lincoln N/Ctr.	136	76.0	172	96.1	7	3.9	20	22.7	68	77.3
McDowell - McDowell N/Ctr.	125	91.2	114	83.2	23	16.8	44	44.4	55	55.6
- Hilltop House	135	88.2	149	97.4	4	2.6	19	24.7	58	75.3
Madison - Madison Manor N/Ctr.	63	85.1	74	100.0	-	-	23	33.8	45	66.2

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Martin - Albemarle Villa	241	93.4	141	54.7	117	45.3	25	20.7	96	79.3
Mecklenburg - Wesleyan N/Home	157	57.5	238	87.2	35	12.8	24	22.6	82	77.4
- Hillcrest Manor NHM	-	-	32	100.0	-	-	0	0.0	23	100
- Wessell's N/Home	48	96.0	3	6.0	47	94.0	6	24	19	76
- Wesley NCTR Asbury CCTR	69	14.5	472	99.4	3	.6	57	15.7	306	84.3
- Hawthorne N/Ctr.	38	10.2	364	97.9	8	2.1	29	20.9	110	79.1
- Sharon Towers	-	-	232	100.0	-	-	5	7.9	58	92.1
- Hospitality CCTR	136	71.2	148	77.5	43	22.5	22	22	78	78
- Beverley Manor	108	39.1	237	85.9	39	14.1	36	31.3	79	69.7
- Providence Conv. Ctr.	69	26.8	198	76.7	60	23.3	19	17.6	89	82.4
Montgomery - Montgomery N/Home	74	79.6	79	84.9	14	15.1	14	25.9	40	74.1
Moore - Episcopal Home For Aging	-	-	71	94.7	4	5.3	5	17.2	24	82.8
- Manor Care of Pinehurst	97	40.4	218	90.8	22	9.2	17	17	83	83
- Pinehurst N/Ctr.	57	83.8	38	55.9	30	44.1	14	22.2	49	77.8
Nash - Westgate N/Ctr.	125	87.4	96	67.1	47	32.9	26	31	58	69
- Guardian Care, Rocky Mt.	21	11.7	171	95.5	8	4.5	34	30.4	78	69.6
New Hanover - Grotgen N/Home	48	44.5	72	66.7	36	33.3	12	24	38	76
- Bowden N/Home	77	50.7	121	79.6	31	20.4	15	18.8	65	81.2
- Cornelia Nixon Davis NHM	90	30.0	283	94.3	17	5.7	27	14.4	160	85.6

County & Facility Name	Medicaid	Percent	White	Percent	Non-White	Percent	Male	Percent	Female	Percent
New Hanover (continued)										
- Hillhaven Conv. Ctr.	179	42.3	352	83.2	71	16.8	31	32.3	65	67.7
Northampton - Roanoke Valley HM	56	60.2	88	94.6	5	5.4	10	17.4	57	82.6
Onslow - Oak Manor of Jacksonville	220	87.7	179	71.3	72	28.7	92	35.6	94	64.4
- Elderlodge Jacksonville	135	88.2	117	76.5	36	23.5	28	18.2	96	71.8
Orange - Lakeville Manor	54	49.1	72	65.5	38	34.5	14	33.3	38	66.7
- Hillhaven N/Ctr.	189	87.1	129	59.4	88	40.6	37	33.9	72	66.1
- Carol Woods Health Fac.	-	-	143	100.0	-	-	8	30.8	18	69.2
Pasquotank - W. R. Winslow Mem. HM	188	78.7	198	82.8	41	17.2	34	28.1	87	71.9
- Guardian Care/ Elizabeth City	135	73.0	135	73.0	50	27.0	32	26.7	88	73.3
Pender - Guardian Care/ Burgaw	74	64.9	85	74.6	29	25.4	23	33.3	46	66.7
Person - Roxboro N/Ctr.	124	94.7	111	84.7	20	15.3	21	23.1	70	76.9
Pitt - Univ. N/Ctr.	214	75.6	201	71.0	82	29.0	34	28.3	86	71.7
- Greenville Villa	254	89.8	197	69.6	86	30.4	48	31.8	103	68.2
- Guardian Care/ Farmville	64	81.0	61	77.2	18	22.8	12	21.8	43	78.2
Polk - Saluda N & Conv Ctr.	73	61.4	111	93.3	8	6.7	14	24.6	43	75.4
- White Oak Manor	55	39.9	128	92.8	10	7.2	18	30.5	41	69.5
Randolph - Clapps Conv. N/Home	23	42.6	50	92.6	4	7.4	6	23.1	20	76.9
- Brian Ctr. N/Care Asheboro	276	76.0	332	91.5	31	8.5	94	35.7	156	74.3

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	[illegible]	[illegible]	[illegible]	[illegible]
Richmond - Care In	162	91.4	142	69.6	62	30.4	[illegible]	[illegible]	[illegible]	[illegible]
Robeson - Wesley Pines	35	48.0	66	90.4	7	9.6	[illegible]	[illegible]	[illegible]	[illegible]
- Kingsdale Manor	220	100.0	84	38.2	136	61.8	[illegible]	[illegible]	[illegible]	[illegible]
Rockingham - Rockingham N/Ctr.	195	89.5	174	79.8	44	20.2	[illegible]	[illegible]	[illegible]	[illegible]
- Liberty House NHM	135	84.9	124	78.0	35	22.0	24	2[illegible]	[illegible]	[illegible]
Rowan - Rowan Manor N/Ctr.	259	66.8	317	81.7	71	18.3	[illegible]	24.4	[illegible]	[illegible]
- Jolene's N.Home	68	77.3	44	50.0	44	50.0	10	2[illegible]	30	75
- N. C. Lutheran Home	61	54.5	112	100.0	-	-	17	20	[illegible]	80
Rutherford - Haven In The Hills	-	-	29	100.0	-	-	2	9.1	20	90.9
- Rutherford Cty. Conv. Ctr.	122	88.4	119	86.2	19	13.8	12	24	38	76
-	295	71.1	341	82.2	74	17.8	39	26.4	109	7 .6
Sampson - Mary Gran NCTR	130	66.7	160	82.0	35	18.0	24	20.3	94	79.7
Scotland - Westminster Home	72	92.3	31	39.8	47	60.2	12	28.6	30	71.4
Stanly - N. C. Lutheran	44	44.0	99	99.0	1	1.0	10	19.2	42	80.8
- Piedmont N/Ctr.	105	42.9	232	94.7	13	5.3	27	23.9	86	76.1
Stokes - Guardian Care	60	61.9	87	89.7	10	10.3	12	20.7	46	79.3
Surry - Surry Community N/Ctr.	53	28.8	182	98.9	2	1.1	33	27.7	86	72.3
- Guardian Care	107	89.2	118	98.3	2	1.7	21	21.2	78	78.8
Swain - Mt. View Manor NCTR	270	92.2	273	93.2	20	6.8	24	21.8	86	78.2
Transylvania - Brian Ctr./ Brevard	156	87.2	171	95.5	8	4.5	30	28.6	75	71.4

County & Facility Name	Medicaid	Percent	White	Percent	Non-White	Percent	Male	Percent	Female	Percent
Union - Guardian Care	118	77.6	134	88.2	18	11.8	19	16.8	94	83.2
Vance - Pine Haven CCTR	51	76.1	63	94.0	4	6.0	8	15.7	43	84.3
- Guardian Care	80	61.5	102	78.5	28	21.5	14	17.5	66	82.5
Wake - Mayview Conv. Ctr.	37	14.2	256	98.5	4	1.5	24	17.8	111	82.2
- Knolwood Manor	176	87.1	152	75.3	50	24.7	16	14.8	92	85.2
- Hillhaven Conv. Ctr.	125	32.1	375	96.4	14	3.6	53	30.5	121	69.5
- Hillhaven Sunnybrook CCTR	222	86.1	201	77.9	57	22.1	32	26.9	87	73.1
- Glenwood Hills ICF	48	87.3	54	98.2	1	1.8	0	0.0	30	100
- Kinton Nursing Home	89	93.7	90	94.7	5	5.3	9	22.5	40	77.5
- Brian Ctr. N/Care	262	85.9	178	58.4	127	41.6	55	46.2	64	53.8
- Guardian Care of Zebulon	59	70.2	79	94.1	5	5.9	14	23.3	46	76.7
Watauga - Watauga N/Care Ctr.	232	91.3	234	92.1	20	7.9	30	29.1	73	70.9
Wayne - Oak Manor	256	94.1	175	64.3	97	35.7	43	26.2	121	73.8
- Medical Park N/Ctr.	146	85.9	130	76.5	40	23.5	19	17.3	91	82.7
- Howell's Child Care	34	94.5	19	52.8	17	47.2	17	53.1	15	46.9
- Guardian Care/ Goldsboro	-	-	82	100.0	-	-	11	25	33	75
Wilkes - Vespers N/Home	193	83.2	184	79.3	48	20.7	32	28.1	82	71.9
- Oak Manor/ Wilkesboro	112	73.7	140	92.1	12	7.9	33	33.3	66	66.7
Wilson - Wilson Conv. Ctr.	-	-	105	99.1	1	.9	9	20	36	80

County & Facility Name	Medicaid	Percent	White	Percent	Non-white	Percent	Male	Percent	Female	Percent
Wilson (continued)										
- N. C. Special Care Ctr.	167	75.2	150	67.6	72	32.4	66	33	134	67
- Westwood Manor N/Home	128	67.0	156	81.7	35	18.3	32	29.6	76	7 .4
Yadkin - Yadkin N/Care	136	67.3	197	97.5	5	2.5	14	16.9	69	83.1
STATE TOTALS	24,469	65.4	30,706	82.1	6,714	17.9	4,824	25.4	14,131	74.6

EXHIBIT 3

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

October 20, 1982

Mr. Ernest Phillips, Deputy Director
Division of Facility Services
Albemarle Building
Raleigh, North Carolina 27611

Dear Mr. Phillips:

The Legislative Research Commission's Study Committee on Civil Rights Compliance is interested in some follow-up inquiries regarding some of the nursing homes we discussed October 13. Please look at the following counties:

(1) Anson - Wadesboro Nursing Home is 95.5% white while the non-white population in that county is very high.

(2) Catawba - has identifiably non-white home (Hickory Health Care) and white homes (e.g., Brian Center).

(3) Cumberland - has identifiably non-white home (Gladhaven) and white homes (e.g., Golden Years).

(4) Durham - has identifiably non-white home (Durham Care Center) and white homes (e.g., Methodist Retirement Home, Hillhaven Rose Manor).

(5) Guilford - has identifiably non-white home (St. James) and white homes (e.g., The Evergreens II).

(6) Halifax - has identifiably white home (Guardian Care of Roanoke) in county of very high non-white population.

(7) Northampton - Roanoke Valley NHM is 94.6% white in a county with very high non-white population.

(8) Robeson - has identifiably white home (Wesley Pines) and non-white home (Kingsdale Manor).

(9) Wake - has several identifiably white homes (e.g., Glenwood Hills, Guardian Care of Zebulon) and one home with high non-white population (Brian Center).

The Committee wants to be sure no discrimination is occurring in either the admission policies of the homes or the referrals of the social services departments. Please inquire as to admission policies, racial make-up of waiting lists, referral policies, and whether persons of a particular race are consistently referred to certain homes.

Thank you for your assistance.

Yours truly,

Senator Russell Walker

Representative Kenneth Spaulding

AWT:bs

EXHIBIT 4

EXHIBIT 4

STATE OF NORTH CAROLINA
DEPARTMENT OF HUMAN RESOURCES
Division of Facility Services

JAMES B. HUNT, JR.
GOVERNOR

SARAH T. MORROW, M.D., M.P.H.
SECRETARY

P. O. BOX 12200 RALEIGH 27605-2200

L. O. WILKERSON, JR.
DIRECTOR
TELEPHONE
733-2342

INFORMATIONAL MEMORANDUM

TO: Senator Russell Walker, Co-Chairman
Representative Kenneth Spaulding, Co-Chairman
Committee on Civil Rights Compliance
Legislative Research Commission

FROM: Ernest Phillips, Deputy Director

DATE: November 9, 1982

SUBJECT: The Committee's Inquiry on Specific Nursing Homes

Following the Committee's request of October 20, 1982, telephone contact was made with the nine county departments of social services and with the administration of the sixteen homes which were listed in the Committee's letter.

As a general conclusion, all county departments of social services basically operate the same in referring patients to nursing homes. They provide a list of homes and request that the family or responsible person indicate a preference, if any, for a particular home. Once a choice has been made, the county DSS assists the family or responsible person in finding a vacancy at the appropriate level of care. In most instances, the location of the vacancy determines the placement of the patient rather than the desire for a placement in a specific facility.

All of the listed facilities have been cleared by the Office of Civil Rights, Region IV, Atlanta for Title 6 of the Civil Rights Act and have posted the Admission Policy of non-discrimination required by Title 6.

There have been no civil rights complaints filed against any of the listed facilities as far as a review of DFS files could determine. No county DSS indicated any problems in admission of patients to these facilities.

It should be noted that records are not kept on race of patients and, thus, it was not possible to determine racial composition of waiting lists in many cases.

Three documents are attached to this memorandum:

1. 1982 Census Information
2. 1982 Census Figures
3. Summary Comment on Individual Facilities

EP:gp

Attachments

1982 CENSUS INFORMATION

County	Facility	Current Non-White Census	No. Medicaid Patients	No. Private Patients	No. Patients on Waiting List White	No. Patients on Waiting List Non-White
Anson	Wadesboro Nursing Home	21	101	18	4	1
Catawba	Williams Nursing Center	17	93	1	15 persons on list race unknown	
	Brian Center	7	83	17	100 persons on list race unknown	
Cumberland	Gladhaven	90	98	0	4	7
	Golden Years	0	47	11	12	0
Durham	Durham Care Center	93	85%	45%	2	2
	Hillhaven Rose Manor	40	107	8	2	2
	Methodist Retirement Center	2	30	88	unknown	
Guilford	St. James Nursing Center	92	95	5	There is a waiting list race and No. unknown	
	Evergreens II	3	76	42	race and No. unknown	
Halifax	Guardian Care of Roanoke	19	64	3º	1	0
Northampton	Roanoke Valley Nursing Home	5	42	27	6 persons on list race unknown	
Robeson	Wesley Pines	3	23	59	none	
	Kingsdale Manor	31	107	10	2 4 persons on list race unknown	2
Wake	Glenwood Hills	1	27	3	0	3
	Guardian Care-Zebulon	5	41	19	unknown	
	Brian Center-Raleigh	40%	95%	4-6	50%	50%

1980 CENSUS FIGURES

	Total Population			Population Over Age 65		
County	White	Non-White	% Non-White	White	Non-White	% Non-Whi
Anson	13,616	12,033	46.9%	2,101	1,229	36.9%
Catawba	94,974	10,234	10.8%	9,347	770	7.6%
Cumberland	158,237	88,923	35.9%	7,700	3,519	31.3%
Durham	95,818	56,967	37.2%	10,721	5,046	32%
Guilford	234,579	82,575	26%	26,264	5,674	17.7%
Halifax	27,559	27,727	50.1%	4,087	2,658	39.4%
Northampton	8,824	13,760	60.9%	1,527	1,453	48.7%
Robeson	39,994	61,616	60.6%	4,859	4,507	48.1%
Wake	231,543	69,784	23.1%	17,123	5,146	23.1%

Summary Comments on Individual Facilities

Anson

Wadesboro Nursing Home: has 21 non-white patients at present. This is in contrast to 3 non-white patients in 1980 census.

Catawba

Williams Nursing Center (formerly Hickory Health Care Center): apparently there was an error on previous census. Williams has never had a predominance of non-white patients. Non-white population is 7.5% and non-white patient census is 15.4%

Brian Center: current non-white census is 6.6%.

Cumberland

Gladhaven: a black owned and operated facility. Current white census is 9% but in 1980 white census was 18.1% in a county with 64% white population.

Golden Years: facility is owned by church and gives preference on admission to church members but only three patients are church members. It is difficult to determine the reason for the lack of non-white patients. There have been non-white admissions in past. The administrator states he has tried to recruit non-white admissions but with little success.

Durham

Durham Care Center: Non-white census is 59% in a county with 37.2% non-white population.

Methodist Retirement Home: Admission policy is to give admission preference to applicants on following priority:

1. Residents transferring from retirement unit
2. Methodist ministers
3. Methodist laymen
4. Methodists from outside conference
5. Any other religious denomination.

Since primary admission is to members of Methodist conference there are no non-whites on the waiting list.

The administrator is non-white.

Hillhaven Rose Manor: Current non-white census is 31% compared to 10% in 1980.

. Guilford

St. James Nursing Center: owned by the St. James Baptist Church which is non-white. Majority of patient referrals are from L. Richardson Hospital which has 115 non-white and 2 white patients and 33 non-white staff physicians out of a total of 38.

Evergreens II: The facility states that only 4-5 non-whites have applied for admission over the last twelve months. Guilford County does show 15 licensed homes of which two have 100% white occupancy, five have 97% white occupancy and the remainder have white occupancies ranging from 94% to 16%.

. Halifax

Guardian Care, Roanoke Rapids: Non-white utilization has increased from 12% (1980) to 18% (1982). Location at the north end of the county probably has an effect on non-white utilization.

. Northampton

Roanoke Valley Nursing Home: Facility has published notice of non-discriminatory admission policy in local news on several occasions.

. Robeson

Wesley Pines: This is a church supported home for the Rockingham District of the Methodist Church. The current district superintendent is black. Home does not put people on waiting list but works directly with local hospital for placement. Methodists do have priority for admission.

Kingsdale Manor: Facility is 24% non-white in a county with 48.1% of persons over 65 being non-white.

. Wake

Glenwood Hills: This is a small 30 bed facility operated and owned by the same corporation that owns Knollwood Manor. Knollwood Manor has a non-white census of 24%. Glenwood Hills has non-white census of 3%. Vacancy at Glenwood Hills is very rare as less seriously ill patients are maintained at Glenwood Hills. Location would seem to be a factor in that facility is remotely located.

Guardian Care of Zebulon: Race is not asked on waiting list and facility does not know.

Brian Center: Has 40% non-white. Hillhaven Sunnybrook located within one block has 22% non-white. Location near Wake Medical Center appears to be a factor since majority of non-white physicians practice at Wake.

EXHIBIT 5

North Carolina
Department of
Human Resources

Division of
Social Services
John Syria, *Director*

James B. Hunt Jr
Governor
Sarah T. Morrow, M.D., M.P.H.
Secretary

DSA

November 9, 1982

MEMORANDUM

TO: Legislative Committee Investigating Civil Rights Compliance in Institutions Receiving State Aid

FROM: John M. Syria

RE: County DSS Referrals to Nursing Homes

Staff to the committee requested that four of our county departments try to determine how many DSS referrals have been made to specified homes in each county. Attached is a summary of that information.

JMS:bh
Attachment

Albemarle Building, 325 N. Salisbury St. Raleigh 27611 • 919/733-3055

County	Home	Referrals in Last 6 mos.	White	Non-white	Comments
Cumberland	Golden Years	0			Very little turnover. DSS has not placed anyone there in over 1½ years.
	Gladhaven SNF	2		2*	*Clients requested this home; one was not placed because no bed was available.
Guilford	Evergreens II	2		2	Requests family members make referrals usually.
	St. James	6	1	5	
Northampton	Roanoke Valley	8	3	5	None was accepted because beds were full. DSS does not make many referrals to this home because occupancy rate is high. Almost all patients are private-pay and usually get processed first.
Wake	Guardian Care	0			Long waiting list
	Glenwood Hills	3	2	1*	*Referred and on waiting list but went to another facility with opening.

EXHIBIT 6

County & Facility	1980-81 White	1980-81 Non-White	1981-82 White	1981-82 Non-White
Anson				
Wadesboro Nursing Home	63	3	126	16
Buncombe				
Pisgah Manor	165	8	112	1
Catawba				
North Carolina Lutheran Home	91	-	127	-
Hickory Health Care	27	143	Change of ownership figures not available	
Brian Center	172	8	87	5
Cumberland				
Gladhaven	33	149	6	118
Golden Years	80	-	78	-
Rest Haven	87	4	Facility would not furnish	
Bethesda Health Care	88	5	83	5
Davidson				
Buena Vista	60	3	60	3
Mountain Vista	113	4	Facility would not furnish	
Durham				
Methodist Retirement	206	-	99	3
Hillhaven Rose Manor	193	46	101	50
Durham Care Center	149	179	110	191
Forsyth				
North Carolina Baptist Home	112	-	104	1
Meadowbrook Manor	161	2	114	2

EXHIBIT 6

County & Facility	1980-81 White	1980-81 Non-White	1981-82 White	1981-82 Non-White
Gaston				
Dwight L. Beam	90	-	95	9
Carolina Care	75	1	225	5
Guilford				
Maryfield	183	2	139	2
Clapp's	51	1	46	-
Wesleyan Arms	194	3	198	1
Friends Home	96	1	108	1
Presbyterian Home	78	-	72	-
Countryside Manor	86	1	60	-
Evergreens II	149	5	206	4
St. James Nursing Home	45	223	58	230
Halifax				
Guardian Care-Roanoke	153	22	123	24
Guardian Care-Scotland Neck	47	46	48	43
Jackson				
Skyland Care	230	1	174	3
Lenoir				
Guardian Care	146	11	155	17
Mecklenburg				
Wessell's	3	47	5	47
Wesley	472	3	386	3
Hawthorne	364	8	126	10
Nash				
Guardian Care	171	8	109	8
New Hanover				
Cornelia Nixon	283	17	268	11

County & Facility	White	Non-White	White	Non-White
Northampton				
Roanoke Valley	88	5	80	5
Robeson				
Wesley Pines	66	7	51	3
Kingsdale Manor	84	136	88	35
Rowan				
North Carolina Lutheran	112	-	119	-
Stanly				
North Carolina Lutheran	99	1	84	2
Vance				
Pine Haven	63	4	69	5
Wake				
Mayview	256	4	194	-
Hillhaven	375	14	160	10
Glenwood Hills	54	1	47	1
Kinton	90	5	85	9
Guardian Care	79	5	73	7

EXHIBIT 7

Memorandum

JAN 19 1981

David F. Chavkin
Deputy Director for Program Development
Office for Civil Rights

EXHIBIT 7

Nursing Home Admissions Practices

Carmen Rockwell
Acting Director
Office for Civil Rights, Region III

Issue:

Your office has requested a policy clarification regarding an ongoing complaint investigation of nursing home admissions practices. Specifically, your office has requested clarification regarding the extent to which Title VI is applicable to admissions practices of homes affiliated with religious orders and fraternal organizations.

Conclusion:

A nursing home may limit admissions to members of a particular religious order, if such a limitation is applied uniformly to all applicants for admission and if the religious order does not otherwise discriminate on the basis of race, color, or national origin. If both of these conditions are met, a nursing home may limit admissions to members of a particular religious order if it admits members of that order of all races, colors, and national origins.

A nursing home may not limit admissions to members of a particular fraternal organization if that limitation has been established for the purpose of discriminating on the basis of race, color, or national origin, or if the limitation has the effect of discriminating on the basis of race, color, or national origin.

Discussion:

1. Religious Homes

As presented by your office, the admissions policies or practices of certain nursing homes under review have a disproportionate adverse effect on minorities. These homes limit admissions to members of particular religious orders. Since minorities tend not to be represented in those orders, they are limited to other homes in the area. The key issue then is whether such a restriction is permissible under Title VI.

The investigation should first determine if the nursing home is in fact discriminating on the basis of religion or if the nursing home is really using such a religious restriction on admissions as a

device or pretext to exclude persons on the basis of race, color, or national origin. In making this finding, the investigation should determine whether all persons admitted to the facility are in fact members of the religious order.

If the restriction in admissions has been waived for a substantial number of the patients in the nursing home to permit admissions by persons of a particular race, color, or national origin, while excluding persons of a different race, color, or national origin, the policy or practice violates Title VI. Such a violation should not be found if the restriction has been waived only to an insubstantial extent to permit admission of such persons as spouses of present patients, former employees or relatives of the management.

The investigation should also determine if persons of a particular race, color, or national origin are excluded from or restricted in their rights within the religious order or fraternal organization from which the recipient draws its beneficiaries. If the religious order or fraternal organization is so restricted, then a policy or practice limiting admissions to members of that order or organization violates Title VI.

The most difficult situation is presented by a home that is willing to admit persons of any race, color, or national origin so long as they are members of the particular religious order, the home actually does restrict admissions to members of that order, and few minority persons are members of that particular religious order.

In reviewing such a policy or practice, the legislative history of Title VI provides some guidance. Several early versions of Title VI included "religion" as a prohibited basis of discrimination. However, "religion" was removed from Title VI in its final version as a prohibited basis for discrimination. The legislative history indicates that Congress intended to permit discrimination on the basis of religion. Congress did not directly consider whether such discrimination on the basis of religion is permissible when it has the effect of discriminating on the basis of race, color, or national origin.

In light of the constitutional protection for the free exercise of religion and the congressional sanction for discrimination on the basis of religion, we have concluded that the Office for Civil Rights should determine if the nursing home discriminates against applicants for admission who are members of the religious order on the basis of race, color, or national origin.

In making this determination, the Office for Civil Rights should determine if the percentage of minorities in the home is roughly proportional to the percentage of minorities of that religious order in the service area of the home. If the two percentages are equal, no violation should be found even if the percentage of minority persons in the home is substantially less than the percentage of minority persons in the service area.

b. Fraternal Homes

A limitation on admissions to members of a particular fraternal organization does not enjoy such a constitutionally or statutorily protected status under Title VI. OCR should first determine if the restriction has been established for the purpose of discriminating on the basis of race, color, or national origin. If it has not been established for such a purpose, OCR must determine if the restriction has the effect of discriminating on the basis of race, color, or national origin.

In determining whether the restriction has the effect of discriminating on the basis of race, color, or national origin, a three-step test must be applied. Does the restriction have a disproportionate adverse effect on admissions of persons of a particular race, color, or national origin? If it does, is the restriction necessary to further a legitimate objective unrelated to race, color, or national origin? If the restriction is necessary to further a legitimate objective, are there alternatives that would further that objective with a lesser disproportionate adverse effect.

In applying this test, the burden of establishing disproportionate adverse effect is on the Office for Civil Rights. The recipient has the burden of demonstrating furtherance of a legitimate objective and the absence of alternatives.

FINDINGS

The committee finds:

1. That based on information presented to the committee from all sources, including statistics provided by the Department of Human Resources, there have been and are child caring institutions and a significant number of nursing homes receiving state funds that have an institutional population that does not reflect their local or state racial population. This information has raised questions regarding admissions policies and referral procedures. Further investigation by the committee has resolved many of these questions, but some remain.

2. That some nursing homes make religious affiliation a major requirement for admission. Some religions, while not discriminating in terms of who can become a member, are nevertheless overwhelmingly one race. No cases have been litigated on this point, but the opinion stated by the Department of Health and Human Services is that, as long as the religion does not discriminate in membership policies, its nursing homes may lawfully restrict admissions along religious lines.

3. That in placing patients in nursing homes and especially in placing children in child caring institutions, the evidence raised questions of whether some local departments of social services refer persons to these institutions based on race and whether the historical development of these referral patterns has been in compliance with the Civil Rights Act of 1964.

4. That although the nursing home bill of rights is given to patients after they are admitted into a nursing home, and although applicants' rights under the 1964 Civil Rights Act are posted at local social services departments, the evidence raised questions concerning adequate notice to applicants, including the illiterate or poorly educated. Questions were raised about whether some applicants were given adequate notice of what their rights are and how to complain if these rights are denied.

5. That the Division of Facility Services responds to complaints in nursing homes, but it no longer monitors civil rights compliance. That responsibility was assumed by the federal government in 1980. Before 1980 the division handled these duties under a federally funded contract with the federal government. Since 1980, the contract has not been renewed and the state has not received any additional funds from the federal government for this purpose. The federal Department of Health and Human Services is responsible for compliance through its regional office in Atlanta, Georgia. Testimony by the state Division of Facility Services tended to show that when the contract was not renewed, the federal government de-emphasized civil rights compliance in this area. In the last two years, virtually no on-sight inspection of nursing homes has been conducted, no annual follow-up reports have been required, and no adequate monitoring has been conducted by the federal authority in Atlanta nor by the State of North Carolina. The division has stated that it is audited closely by federal authorities to make sure that it does not use any of its federal money for civil rights compliance, although it is not prohibited from using state funds for this purpose.

6. That the Division of Social Services recently employed a person to spend a portion of his time monitoring civil rights compliance in rest homes and child caring institutions. The division has stated that the compliance issue has not been a high priority in the past, but this personnel decision indicates the division has begun to look at the subject more carefully.

RECOMMENDATIONS

The committee recommends:

1. That the Department of Human Resources make civil rights compliance a higher priority than it has been in the past.

2. That the Division of Facility Services be provided with sufficient funds to monitor civil rights compliance in nursing homes. (Bill follows this section.)

3. That the Division of Social Services be provided with sufficient funds to employ a full-time civil rights coordinator. (Bill follows this section.)

4. That the Department of Human Resources take action to ensure that all persons to be placed in nursing homes, rest homes, and child caring institutions receive adequate notice and an explanation of the rights guaranteed them under the Civil Rights Act of 1964 and how to complain if those rights are denied.

5. That the Division of Social Services require local departments of social services to refer a child needing group care first to the residential group care facility closest to the child's family or document why such a referral would not be in the child's best interest and special needs.

6. That the Division of Social Services require local departments of social services to maintain a log of referrals to child caring institutions and rest homes.

7. That the Division of Social Services alter its computer programs to assign numbers to each rest home. This change will

simplify the division's monitoring of rest homes to make sure patients receiving state/county special assistance are in homes that have signed civil rights compliance forms.

8. That Part 9, Article 9, Chapter 115C of the General Statutes be repealed. These statutes are corporate charter provisions of Central Orphanage of North Carolina that are no longer in effect. (Bill follows this section.)

9. That the Division of Social Services discuss with the Board of Directors of Central Orphanage the division's concern for civil rights compliance. The division believes the main reason for the institution's single-race population is the policy of referrals and that the division can help the board plan comprehensive administrative and staffing strategies to improve compliance.

10. That the Legislative Research Commission continue to study civil rights compliance in non-state institutions receiving state funds. The committee has not yet looked at rest homes. In addition, the committee would like the opportunity to check on results of the recommendations in this report. (Resolution follows this section.)

PROPOSED LEGISLATION

A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR MONITORING CIVIL RIGHTS COMPLIANCE IN NURSING HOMES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1983-84 the sum of fifty-four thousand one hundred sixty-five dollars ($54,165) for the Division of Facility Services to monitor civil rights compliance in nursing homes.

Sec. 2. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR A FULL-TIME CIVIL RIGHTS COORDINATOR IN THE DIVISION OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources for fiscal year 1983-84 the sum of forty-eight thousand five hundred eighteen dollars ($48,518) for a full-time civil rights coordinator in the Division of Social Services.

Sec. 2. This act shall become effective July 1, 1983.

A BILL TO BE ENTITLED AN ACT TO REPEAL OBSOLETE LAWS RELATING TO THE CORPORATE CHARTER OF CENTRAL ORPHANAGE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. Part 9 of Article 9 of Chapter 115C, being G.S. 115C-134 through 115C-138, is repealed.

Sec. 2. This act is effective upon ratification.

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY CIVIL RIGHTS COMPLIANCE IN NON-STATE INSTITUTIONS RECEIVING STATE FUNDS.

Whereas, the Legislative Research Commission studied civil rights compliance in non-state institutions receiving state funds during 1981 and 1982; and

Whereas, the Commission made several recommendations, and it needs to determine whether anticipated progress is occurring; and

Whereas, the Commission intended to look at nursing homes, child caring institutions, and rest homes but was able to study only the first two; and

Whereas, the Commission now needs to look at compliance in rest homes; Now therefore

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may continue to study civil rights compliance in non-state institutions receiving state funds.

Sec. 2. The Commission may make an interim report to the 1983 General Assembly (1984 session) and a final report to the 1985 General Assembly.

Sec. 3. This resolution is effective upon ratification.

APPENDIX A

LEGISLATIVE RESEARCH COMMISSION

STUDY COMMITTEE ON

CIVIL RIGHTS COMPLIANCE

Committee Members

President Pro Tempore's Appointments	Speaker's Appointments
Senator Russell Walker Cochairman P. O. Box 1831 Asheboro, N. C. 27203	Rep. Kenneth B. Spaulding Cochairman 2 Shelly Place Durham, N. C. 27707
Senator James McClure Clarke P. O. Box 1490 Asheville, N. C. 28802	Rep. Gerald L. Anderson 2205 Brices Creek Road New Bern, N. C. 28660
Senator Donald R. Kincaid 102 Mulberry Street, N. W. Lenoir, N. C. 28645	Rep. James B. Black 417 Lynderhill Lane Matthews, N. C. 28105
The Honorable Rowe R. Motley 1726 Madison Avenue Charlotte, N. C. 28203	Rep. Jim Crawford 15 Edgemont Road Asheville, N. C. 28801
LRC member responsible for study:	Rep. Jack Hunt Peachtree Road Lattimore, N. C. 28089

Professional Staff: A. W. Turner, Jr.
Conrad Airall
Legislative Services Office

Clerical Staff: Mrs. Betsy Sykes

APPENDIX B

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1982

RATIFIED BILL

RESOLUTION 61

HOUSE JOINT RESOLUTION 1292

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of study of revenue laws (H.J.R. 15 -- Lilley).

(2) Continuation of study on problems of aging (H.J.R. 48 -- Messer/S.J.R. 37 -- Gray).

(3) Day care (H.J.R. 223 -- Brennan).

(4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 -- Spaulding).

(5) Social services and public assistance (H.B. 393 -- P. Hunt).

(6) The need for new health occupational licensing boards (H.B. 477 -- Lancaster/S.B. 285 -- Jenkins).

(7) Matters related to public education, including:

a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 -- Tally).

b. Continue study of public school food service (H.J.R. 948 -- Brennan).

c. The teacher tenure law (S.J.R. 621 -- Royall).

d. Providing teachers with duty-free periods (S.J.R. 697 -- Speed).

e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).

(8) Campaign financing and reporting (H.J.R. 975 -- D. Clark).

(9) State's interests in railroad companies and railroad operations (H.B. 1069 -- J. Hunt).

(10) Matters related to insurance, including:

a. Insurance regulation (H.B. 1071 as amended -- Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.

b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 -- Seymour).

c. Credit insurance (H.J.R. 1328 -- Barnes).

(11) Matters related to public property, including:

a. Development of a policy on State office building construction (H.J.R. 1090 -- Nye).

b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 -- Adams).

c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 -- Nye).

d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 -- Clarke).

e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 -- Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 -- Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 -- Adams).

(14) Beverage container regulation (H.J.R. 1298 -- Diamont).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 -- Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 -- Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 -- James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 -- Lancaster).

(19) Annexation laws (S.J.R. 4 -- Lawing).

(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).

(21) The feasibility of consolidating the State computer systems (S.J.R. 349 -- Alford/H.J.R. 524 -- Plyler).

(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism

education, rehabilitation and research (S.J.R. 497 -- Gray).

(23) Regional offices operated by State agencies (S.J.R. 519 -- Noble).

(24) Continue study of laws of evidence (S.J.R. 698 -- Barnes).

(25) Continue study of ownership of land in North Carolina by aliens and alien corporations (S.J.R. 714 -- White).

(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 -- Daniels).

(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 -- Taylor).

(28) Continue sports arena study (H.J.R. 1334 -- Barbee).

(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 -- Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through

G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

JAMES C. GREEN

James C. Green

President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1981

H 2

HOUSE JOINT RESOLUTION 344
Committee Substitute Adopted 6/8/81

Sponsors: Representative

Referred to: Judiciary II.

March 3, 1981

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY NON-STATE INSTITUTIONS RECEIVING STATE FUNDS.

Whereas, the 14th Amendment to the United States Constitution, Article I, Section 19 of the North Carolina Constitution, the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and related United States Supreme Court decisions prohibit discrimination on the basis of race, color, sex, religion, national origin, and handicapping condition; and

Whereas, the General Assembly in it budgetary process appropriates State funds to many non-State institutions throughout the State; and

Whereas, State funds should not be used to promulgate discriminatory practices; and

Whereas, the General Assembly should be aware of any non-State institutions receiving State funds which fail to comply with the United States and North Carolina Constitutions, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the related Supreme Court decisions; and

Whereas, the General Assembly needs to gather information concerning the practices of non-State institutions receiving State funds to determine if such practices violate the United States and North Carolina Constitutions, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the related Supreme Court decisions;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission shall review and study non-State institutions receiving State funds to determine if their practices are in compliance with the 14th Amendment to the United States Constitution, Section 19 of the North Carolina Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the related United States Supreme Court decisions and report its findings, including more extensive studies in this respect that the Commission deems necessary, to the 1983 Session of the General Assembly.

Sec. 2. This resolution is effective upon ratification.

APPENDIX C

WITNESSES

Lillian Gaskill
Assistance Director, Regional Administration,
Division of Social Services, Department of Human Resources

Norma W. Grady
Chief, Utilization Review Section, Division of Medical
Assistance, Department of Human Resources

Joan Holland
Chief, Family Services Section, Division of Social Services,
Department of Human Resources

Rose Lucas
Special Assistant to the Director,
Division of Social Services,
Department of Human Resources

Paul R. Perruzzi
Deputy Director, Division of Medical Assistance,
Department of Human Resources

Ernest E. Phillips
Deputy Director, Division of Facility Services,
Department of Human Resources